

President Donald J. Trump
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

March 26, 2018

Re: National coalition rejects death penalty and increased penalties for drug offenses

Dear President Trump:

The United States must effectively confront the devastation resulting from substance use disorders. The skyrocketing increase in overdose deaths –totaling 64,000 in 2016 alone –is a national tragedy that requires substantial resources from the federal government as well as state and local public health officials to address. Given these circumstances, the 62 undersigned faith, civil rights, treatment and legal organizations are deeply troubled by the punitive elements of your administration’s proposal regarding the nation’s drug problems – including increasing already harsh sentences for drug offenses and employing the death penalty. We unequivocally condemn accelerating the use of the death penalty and urge your administration to support proven public health strategies to end the opioid crisis, reduce problematic drug use and save lives.

As criminologists and many policymakers have documented, ratcheting up already tough sentences for people with drug convictions will produce little public safety benefit while carrying heavy fiscal, social, and human costs. Many people entering the criminal justice system are in the lower- and middle-levels of a drug operation. Incarcerating these individuals often results in their being replaced by other sellers willing to fill their roles, and does nothing to address the substance use disorders that users, and many sellers themselves, struggle with. Increasing already severe prison terms has a limited deterrent effect because most people do not expect to be apprehended for a crime, are not familiar with relevant legal penalties, or criminally offend with their judgment compromised by substance use or mental health problems.¹

Current federal mandatory minimum sentences, which apply to many drug offenses, are considered among the harshest in the country. Nearly half of the Bureau of Prisons population is comprised of people convicted of drug offenses. African Americans and Latinos comprise 76% of this population² even though all racial and ethnic groups engage in illicit drug activities at similar rates.³ As of 2012 people

¹ Lynch, J., Heimer, K., Peterson, R.D., Miller, J., DeJong, C., Armstrong, G., Zhang, S.X. (2017). *Statement of the American Society of Criminology Executive Board Concerning the Trump Administration’s Policies Relevant to Crime and Justice*. American Society of Criminology.

http://www.asc41.com/policies/ASC_Executive_Board_Statement_on_Trump_Administration_Crime_and_Justice_Policies.pdf. See also: Lee, M., Durbin, R., Paul, R. & Booker, C. (2017). *Letter to the Attorney General on DOJ Charging and Sentencing Policy*. <https://www.scribd.com/document/350652153/6-7-17-Letter-to-the-Attorney-General-on-DOJ-Charging-and-Sentencing-Policy-FINAL-SIGNED>

² Carson, E. (2018). *Prisoners in 2016*. Bureau of Justice Statistics. Available at: <https://www.bjs.gov/content/pub/pdf/p16.pdf>

³ Johnston, L. D., O’Malley, P. M., Bachman, J. G., & Schulenberg, J. E. (2012). *Monitoring the Future: National Survey Results on Drug Use, 1975- 2012*. Ann Arbor, MI: The University of Michigan Institute for Social Research. Available at: http://www.monitoringthefuture.org/pubs/monographs/mtf-vol1_2012.pdf (TbIs. 4-5, 4-6, and 4-7); Beckett, K., Nyrop, K., & Pfingst, L. (2006). *Race, Drugs, and Policing: Understanding Disparities in Drug Delivery*

...serving a federal prison term for a drug offense were serving an average of 11.3 years.⁴ Almost half (49%) of the 3,861 individuals serving a federal life-without-parole sentence in 2016 are incarcerated for a drug offense.⁵

Concerns about these harsh federal sentences have led to broad bipartisan consensus in support of criminal justice reform. Indeed, Senate Judiciary Chairman Chuck Grassley advanced his bipartisan Sentencing Reform and Corrections Act through committee on a 16-5 vote in February. The bill would give federal judges discretion in sentencing people below a mandatory minimum sentence for low-level drug cases and curb outsized sentences.

According to a 2017 report from the National Research Council, “Lack of economic opportunity, poor working conditions, and eroded social capital in depressed communities, accompanied by hopelessness and despair,” have been the underlying structural determinants of substance use disorders.⁶ Moreover, limited access to drug treatment and medically assisted treatments in particular has undermined the opioid response. One study found that just 21.5% of people with opioid use disorder received any treatment between 2009 and 2013—including non-professional treatment such as self-help groups.⁷ Surveys reveal that one-third of people with substance use disorder did not seek out professional treatment because they lacked health care coverage or could not afford the cost.⁸

To address these needs we endorse investments in communities to expand educational and vocational opportunities, and to ensure access to community-based drug treatment programs, medical care and mental health services. We reject the punitive and overly simplistic approach of the War on Drugs that has contributed to the United States’ world record levels of incarceration, and has fractured families and communities in the process. We ask for your support in advancing a more humane and evidenced-based approach to ending the opioid crisis.

Arrests. Criminology, 44(1), 105–37 (pp. 16–7); Riley, K. J. (1997). *Crack, Powder Cocaine, and Heroin: Drug Purchase and Use Patterns in Six Major U.S. Cities*. National Institute of Justice. Available at: <https://www.ncjrs.gov/pdffiles/167265.pdf> (pp. 15–16).

⁴ In 2016, the average prison sentence imposed on those entering federal prisons for a drug offense—in contrast to the average sentence being served by those already there—was 5.6 years. Taxy, S., Samuels, J., & Adams, W. (2015). *Offenders in Federal Prison: Estimates of Characteristics Based on Linked Data*. United States Department of Justice, Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/dofp12.pdf>; United States Sentencing Commission (2017). *2016 Sourcebook of Federal Sentencing Statistics*. Figure E: Length of Imprisonment in Each General Crime Category, Fiscal Years 2012-2016.

<http://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2016/FigureE.pdf>

⁵ Nellis, A. (2017). *Still Life: America’s Increasing Use of Life and Long-Term Sentences*. The Sentencing Project. <http://www.sentencingproject.org/wp-content/uploads/2017/05/Still-Life.pdf>

⁶ Bonnie, R., Ford, M., & Phillips, J. (Eds.). (2017). *Pain Management and the Opioid Epidemic: Balancing Societal and Individual Benefits and Risks of Prescription Opioid Use*. Washington, DC: The National Academies, Pg. 41. Retrieved from <https://www.nap.edu/catalog/24781/painmanagement-and-the-opioid-epidemic-balancing-societal-andindividual>.

⁷ Saloner, B. & Karthikeyan, S. (2015). *Changes in Substance Abuse Treatment Use Among Individuals With Opioid Use Disorders in the United States, 2004-2013*. The JAMA Network, 314(14), Pgs. 1515-1517.

⁸ Hughes, A., William, M. R., Lipari, R. N., Bose, J., Copello, E.A.P., & Kroutil, L.A. (September 2016). *Prescription Drug Use and Misuse in the United States: Results from the 2015 National Survey on Drug Use and Health*. Substance Abuse and Mental Health Services Administration. Rockville, MD: National Survey on Drug Use and Health Data Review, Table 5.61B. Retrieved from <https://www.samhsa.gov/data/sites/default/files/NSDUH-FFR2-2015/NSDUH-FFR2-2015.htm>.

If you have questions, please contact Kara Gotsch, Director of Strategic Initiatives at The Sentencing Project at (202) 628-0871 or kgotsch@sentencingproject.org or Jesselyn McCurdy, Deputy Director of the American Civil Liberties Union Washington Legislative Office at (202)675-2307 or jmccurdy@aclu.org.

Sincerely,

African American Ministers In Action
Akeela, Inc.
American Civil Liberties Union
American Friends Service Committee
Brennan Center for Justice at NYU School of Law
Buried Alive Project
CANDO Foundation
Church of Scientology National Affairs Office
Congregation of Our Lady of Charity of the Good Shepherd, US Provinces
The Constitution Project at POGO
Criminal Justice Policy Foundation
CURE (Citizens United for Rehabilitation of Errants)
Daytop New Jersey
Defending Rights & Dissent
Drug Policy Alliance
The Evangelical Lutheran Church in America
Exodus Foundation.org
Faith Action Network
Families Against Mandatory Minimums
FedCURE
Franciscan Action Network
Friends Committee on National Legislation
Harm Reduction Coalition
Human Rights Watch
Islamic Society of North America
Jewish Council for Public Affairs
Justice Programs Office at American University
Justice Strategies
Latin America Working Group
Law Enforcement Action Partnership
Legal Action Center
Life for Pot
National Advocacy Center of the Sisters of the Good Shepherd
NAACP
National Association of Criminal Defense Lawyers
National Association of Social Workers

National Center for Lesbian Rights
National Center for Transgender Equality
National Council of Churches
National Immigration Project of the National Lawyers Guild
National LGBTQ Task Force
NETWORK Lobby for Catholic Social Justice
NORML
Office of Social Justice, Christian Reformed Church in North America
Ohio Justice & Policy Center
Presbyterian Church (U.S.A.)
Queeri
Safer Foundation
The Sentencing Project
Sinsinawa Dominican Peace and Justice Office
StoptheDrugWar.org
Students for Sensible Drug Policy
Transgender Law Center
Treatment Communities of America
Union for Reform Judaism
Unitarian Universalist Association
United Church of Christ, Justice and Witness Ministries
The United Methodist Church - General Board of Church and Society
WOLA (Washington Office on Latin America)
Witness to Mass Incarceration
Women Who Never Give Up
Worker Justice Center of New York

Cc: Secretary Alex Azar, Attorney General Jeff Sessions, Speaker Paul Ryan, House Minority Leader Nancy Pelosi, Senate Majority Leader Mitch McConnell, Senate Minority Leader Charles Schumer, U.S. House and Senate Judiciary Committees